

Vitaly Borker - 64386054
Metropolitan Detention Center
80 29th Street
Brooklyn, NY 11223

July 12th, 2018

The Honorable Paul G. Gardephe
United States District Court Judge
Thurgood Marshall Courthouse
40 Foley Square New York, New York 10007

Re: *United States v. Borker, 17 CR 391 (PGG)*

Dear Judge Gardephe:

Supplemental to my verbal statement at my 5/31/2018, Fatico hearing, please find enclosed transcript excerpts along with supporting documentation that my co-defendant Mr. Voller made statements at the hearing that were inconsistent and less than truthful regarding 9 important topics:

1. Eyewearstown.com did not offer repairs
2. MJEyez was formed in 2016.
3. Eugene Radomiskiy's role in Opticsfast.
4. Nobody looked at the glasses.
5. Opticsfast complaints to the BBB post my arrest.
6. Money was not taken out while Mr. Borker was in jail.
7. Customers were "lowballed".
8. The website did not show prices.
9. Mr. Voller's current involvement in customer service.

Your Honor, it is my belief that Mr. Voller was scared that his sister and father would get in trouble because they assisted me in lying to the probation department, regarding my employment at Valentina Accessories. I am very sorry that I caused his family to become involved in these lies, however this does not give him the right to be dishonest, inconsistent and commit perjury in order to get leniency from the court. My concern is that your Honor will rely on these untrue statements at my own sentencing hearing.

At the start of this hearing, Mr. Voller indicated that the website I built for him "eyewear town.com" did NOT offer eyewear repairs. This is not true. Eyewear town.com completed 213 repair orders since it went live (Exhibit1a). I have included a government exhibit of a screenshot of eyewear town.com showing that the "repair" link was present (Exhibit1b), as well as emails between eyewear town repair customers spanning many years (Exhibit1c).

MJEyez another one of Mr. Voller's companies was registered in 2012, not 2016. I have provided a screen shot of the NYS Dept. of Incorporations, which shows that MJEyez was incorporated on 10/15/2012 (Exhibit2a). I have also included a variety of government exhibits such as bank transactions and utility bills paid by MJEyez during 2013-2014 (Exhibit2b, c, d, and e). It is important to note that MJEyez billed Opticsfast over \$100,000+ for services during the timeframe in which I was in jail between 2012-2015. Mr. Voller changed the structure of Opticsfast after I left to prison, to maintain full financial control of both companies, giving him the ability to milk Opticsfast of all of its profits.

Eugene Radomiski was not a "piece of paper with a name on it" as Mr. Voller testified. Eugene was a knowledgeable and experienced IT developer who attempted very hard to keep Opticsfast alive while I was away in prison. Eugene serviced the databases; resolved data feed problems with merchant marketplaces such as Amazon and Sears; crafted customer service newsletters among many other technical matters over the years. There are hundreds of emails between Opticsfast and Eugene during the time I was away. I have included some of these emails (Exhibit3a). Mr. Voller knew very well that Eugene worked on all of these tasks. The real reason Eugene left Opticsfast in 2014, was because he was scared Mr. Voller was causing all kinds of problems using his name.

One of the most troubling topics Mr. Voller testified to was the false fact that Opticsfast does not examine customer's glasses when sending estimates. First he confirmed they do get examined, and then later in his testimony, said the opposite. I have included an Affidavit by staff member Marina Rosin who truthfully indicated that her role was to "examine the glasses carefully" and to "estimate the cost of the repair for the problem customer specified" (Exhibit4a).

Since I have been remanded by Judge Sullivan on 6/5/2017, there have been approximately 35 more complaints reported to the BBB regarding Opticsfast (Exhibit5a). There were over 130 emails sent from the BBB to Opticsfast after I was remanded until the present date. I have included some of these emails between Opticsfast and the BBB (Exhibit5b). Specifically on 2/14/2018, BBB dispute specialist Anuj Bhadari communicated with Mr. Voller regarding a missing frame (Exhibit5c). On 11/3/2017 BBB Dispute Specialist Kashuana Watts communicated with Mr. Voller regarding a lost shipment (Exhibit5d). These emails are dispositive proof that Mr. Voller was aware of BBB complaints. He indicated that he was unaware that there were any complaints filed.

Message header's for both aforementioned BBB emails (Exhibit5c, d), reveal that the "originating-ip" is "69.114.27.157" (Exhibit5e). This IP address belongs to Mr. Voller. This is the computer that was used to respond to the BBB emails. An "originating-ip" is a defacto standard for identifying the originating IP address of a client connecting to a mail service (<https://en.wikipedia.org/wiki/x-originating-ip>). In layman's terms Mr. Voller's computer was used, when replying to the BBB from email address "sales@opticsfast.com".

While I was in prison between 2012-2015, Mr. Voller paid himself through Opticsfast more than \$31,000 (Exhibit6a). This does not even include the over \$100,000+ that Opticsfast paid MJEyez in that same time frame for alleged services. This also does not include the tens of thousands of dollars that Opticsfast paid Eyewear town which Mr. Voller also financially controlled. A great portion of money paid to all of these companies is unaccounted for. All while he testified that he did not take any money while I was in jail.

I am very disturbed to have listened to Mr. Voller indicate to this court that customers were "lowballed". I have enclosed many emails to customers sent by Mike (aka "dino") which show that he was NOT engaging in this practice (Exhibit7a, b, c, d.). In fact one of them is an email in which I and he were trying to find a middle ground on what to tell potential customers regarding prices. Mr. Voller also falsely informed this court that there were no prices posted online, but

that too is untrue. I have included the "Estimated Repair Pricing" screen that shows the "starting at" prices for many types of eyewear repairs (Exhibit8a). The link to the estimated price page is right in front of the customer when the customer starts the repair process (Exhibit8b). I designed it such in 2017 that all customers would have seen this large orange button.

Finally, Mr. Voller has been involved with customer service via email, since the moment I went to jail on 6/5/2017, even though he testified that "his sister is dealing with customer service". At the hearing Mr. Voller referenced writing an email at the end of 2017 to Lenny Rosin. I have recovered this email from our archives (Exhibit9a). The underlying header information which includes the "originating-ip" reveals that this email was sent from IP address "69.114.27.157" (Exhibit9b). This is the very same IP address that was used to communicate with the BBB specialists. This email was sent by Mr. Voller from "sales@opticsfast.com" to Lenny Rosin at "sales@atozeyewear.com".

Based on this information, I extrapolated all emails sent by Opticsfast post my arrest with "originating-ip" address "69.114.27.157". I have included a zip file with over 3,000+ emails sent from "sales@opticsfast.com" to its customers from IP address "69.114.27.157", during May 2017 through May 2018. All of these emails were sent by Mr. Voller.

1. EYEWEARTOWN DID NOT OFFER REPAIRS:

Tr (16:22-25)

COURT: I'm trying to understand how the business of Eyewear town was different from the business of Decormyeyes.com

WITNESS: It didn't offer the repair service.

A. Exhibit1a.pdf - Total Repairs that Eyewear town completed from the Database

B. Exhibit1b.pdf - Screenshot of Eyewear town.com from the Government Discovery

C. Exhibit1c.pdf - Emails between customers of eyewear town asking repair related questions and getting answers

2. MJEYEZ WAS FORMED IN 2016:

Tr(17:16-21)

Q: Can you tell us what MJ Eyez is?

A: MJ Eyez was formed after the Opticsfast. Basically we were going to --

COURT: What year would that have been, approximately?

WITNESS: 2016

A. Exhibit2a.pdf - Document from the NYS Dept of Corporations

B. Exhibit2b.pdf - ConEd Records MJEYEZ for 3/2013

C. Exhibit2c.pdf - Rent Payment MJEYEZ for 4/2014

D. Exhibit2d.pdf - Bank Account Record from 2/2013

E. Exhibit2e.pdf - Bank Account Record from 3/2013

3. EUGENE RADOMISKIY'S ROLE IN OPTICSFAST:

Tr (21:17-18)

Q: What work did Mr. Radomiskiy do for Opticsfast?

A: None. He was just a name

Tr (24:10-12)

Q: After Mr. Borker was remanded, what was Mr. Radomiskiy's involvement in Opticsfast?

A: Nothing. Just a -- a piece of paper with a name on it.

A. Exhibit3a - Emails between "sales@opticsfast@.com" and "eradom78@gmail.com"

4. NOBODY LOOKED AT THE GLASSES:

Tr (38:21-39:7 - Voller Testimony)

Q: What steps would Opticsfast take after a customer had sent in their glasses?

A: So we would open up the box...assign an order number...open the order up...because it was the customers responsibility to add some kind of note to the order advising anyone at Opticsfast what needs to be done... go into a menu screen where we would select the options...that the customer wanted to be repaired....yeah, its basically -- you're providing -- you're generating an invoice for the customer to get mailed.

Tr (40:19 - 41:5 Voller Testimony)

Q: How did you determine what services to include in the invoice?

A: Based on the customer notes and then at times we would even include different suggested repairs that were not part of the customer notes in the orders.

Q: How did you determine to add those to the invoice?

A: Well when we opened the boxes, we would see --- ... if we open up the order and we look at the order and it says I need a lense replacement...then we would look at the lenses and say OK..."

Tr (50:20-21 - Voller Testimony)

Q: So Lena put the invoices together?

A: She did.

Tr (90:3-22 - Voller Testimony)

THE WITNESS : We didn't inspect the frames.

THE COURT : So when you told a customer, I think you need new lenses or I think you need some other peice of work done on the glasses, was that based on an actual inspection of the glasses?

THE WITNESS : No.

THE COURT : That was just completely fabricated?

THE WITNESS : More or less, yes, just to upcharge

THE COURT : Just to upcharge.

THE WITNESS : To get the esimate high.

THE COURT : So for example, if you were dealing with a customer and you said, well , you need the lens fixed or you need a new screw or you need a new, what did you call the thing?

THE WITNESS: Temple tip.

THE COURT : You actually had no idea whether the glasses --

THE WITNESS: Most of the time, no

THE COURT : -- required that work or not.

THE WITNESS : Most of the time.

Tr (214:22-215:24 - Borker Testimony)

THE COURT : Well, Mr Voller testified, in substance, that he suggested to customers additional work that could be done on their glasses even though he had actually never looked at the glasses. In fact, I think he testified that glasses were never examined on site at Opticsfast.

THE WITNESS : That statement, that statement is not true. All the glassss were inspected at Opticsfast. There was a staff member who opened up the box, examined the glasses, indicated exactly what needed to be done, and produced an invoice to the customer.

THE COURT: And who was that who did that? Who did that work?

THE WITNESS : Her name is Yelana. Kristen would be her aka

WITNESS: Sorry. Kristen that was her alias name. Her name is Yelena. She did all the invoicing, including an additional person named Marina.

THE COURT : Is this the one we've heard described as Lena.

THE WITNESS : Yes.

THE COURT : So Lena opened up every box that came in from customers, she looked at the glasses, and she figured out what needed to be done --

THE WITNESS : Yes Sir.

THE COURT : -- in terms of repair work?

THE WITNESS : Yes, sir.

A. Exhibit4a.pdf-Marina Rosin Affidavit

5. OPTICSFAST COMPLAINTS TO THE BBB POST ARREST:

Tr (75:15-21)

Q: They are still getting complaints from the Better Business Bureau correct?

A: Not to my knowledge.

Q: Have you gotten any complaints from the Better Business Bureau relating to your management of Opticsfast since the time that Borker went to jail in June of 2017?

A: I have not.

A. Exhibit5a.pdf - BBB SpreadSheet Post Borker's Arrest with 35 new complaints

B. Exhibit5b.pdf - Variety of emails between THE BBB and Opticsfast

C. Exhibit5c.eml - Specific Example of Mr. Voller communicating with BBB Specialist Anuj Bhandari on 2/14/2018

D. Exhibit5d.eml- Specific Example of Mr. Voller communicating with BBB Specialist Kashanua Watts on 11/3/2017

E. Exhibit5e - "originating-ip" information for Exhibit5c and Exhibit5d showing they were sent by Mr. Voller

6. MONEY WAS NOT TAKEN OUT WHILE MR. BORKER WAS IN JAIL:

Tr (102:6-7)

Q: Didn't you take money out while Borker was in jail?

A: No.

A. Exhibit6a.pdf - Money paid to Mike Voller while Borker was in jail

- a. SDNY_011708 08/14/2012 \$3,430.00
- b. SDNY_011751 09/17/2012 \$1,425.00
- c. SDNY_011752 09/20/2012 \$5,100.00
- d. SDNY_011782 10/26/2012 \$3,580.00
- e. SDNY_011806 11/20/2012 \$4,340.00
- f. SDNY_011848 12/21/2012 \$3,740.00
- g. SDNY_011872 01/16/2013 \$2,918.00
- h. SDNY_011908 02/25/2013 \$3,650.00
- i. SDNY_012032 05/01/2013 \$3,665.00

Grand Total : \$31,848.00

7. CUSTOMERS WERE LOWBALLED:

Tr(41:23-42:6)

Q: Why was the invoice amount higher than what was previously provided?

A: Well, general ideas with to tell the customer - well, to lowball the numbers initially, to have that customer send in the frames where they would like , oh my god this is great. This is cheap, cheap service. Lets's just hypothetically say we would tell them its \$10 to repair something. Once they send it in, then we can always inflate to 20,25,30 whatever it is. But now we have the frames in our possession.

Tr (43:1-4)

THE WITNESS : It was on the inquiry. So if a customer inquired how much a certain frame costed to repair, it would be a lowball number. Once we received the frames and we create the estimate, thats where the higher numbers come from.

A. Exhibit7a.pdf : Email sample of estimates being sent to customers \$45-50 for Lenses

B. Exhibit7b.pdf : Conversation with Borker and Voller about Repair Pricing

C. Exhibit7c.pdf : Email sample of estimates being sent to customers \$60-70 , \$60-\$65 , \$50-55

8. THE WEBSITE DID NOT SHOW PRICES:

Tr (43:5-9)

THE COURT : Now, I thought there were prices that were posted online. Did I misunderstand?

THE WITNESS: There were no prices.

THE COURT : There were no prices put online?

THE WITNESS : No.

A. Exhibit8a.pdf - Estimated Price List

B. Exhibit8b.pdf - Repair Homepage with the "Estimated Price List" Button

9. MR. VOLLER IS STILL INVOLVED IN CUSTOMER SERVICE

Tr (78:22-25)

Q: Have you been still running Opticsfast in that period of time?

A: Its running. My sister is dealing with customer service, but its running.

Tr (108:23-109:2)

Q: What did you explain to him in your email at the end of 2017?

A: I just sent him an email saying "Can you please remove". and I gave him instructions of what needs to be removed and on what page and he replied "done"

A. Exhibit9a.eml - Email sent by Mike asking Lenny Rosin in late 2017 to make changes and Lenny responding "Done".

B. Exhibit9b.pdf - The internal "originating-ip" of this email showing to be "69.114.27.157".

C. Exhibit9c.zip - 3,000 + email's sent by Mr. Voller to Opticsfast's customers from his IP address "69.114.27.157" between 5/2017 and 5/2018

Please find enclosed CD with all aforementioned exhibits.
You may also download these exhibits at the following link:
<http://www.opticsfast.com/07.12.2018-LetterToJudge.zip>

Respectfully Submitted

Vitaly Borker
Defendant

cc: Dominic Amorosa ESQ, US Attorney Geoffrey Berman, AUSA Jeffrey Coffman, AUSA Sarah Mortazavi.